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Date of Deposit: September 22, 2004

Attorney Docket No. 21465-510 UTIL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS :	John H. Leamon, <i>et al.</i>	CONFIRMATION NUMBER :	5560
SERIAL NUMBER :	10/767,779	EXAMINER :	Not Yet Assigned
FILING DATE :	January 28, 2004	ART UNIT :	1632
FOR :	METHODS OF AMPLIFYING AND SEQUENCING NUCLEIC ACIDS		

MAIL STOP MISSING PARTS

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

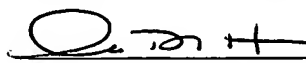
RESPONSE TO NOTICE TO FILE MISSING PARTS

In response to the Notice To File Missing Parts of Nonprovisional Application mailed June 22, 2004, Applicants submit herein an executed Combined Declaration and Power of Attorney form (executed in one counterpart); payment of the surcharge as set forth in 37 C.F.R. §1.16(e) which is included in Check Number: 2144 totaling \$504.00 (\$65.00 to cover the surcharge and \$439 to cover the additional claim fees); a copy of the Notice to File Missing Parts of Nonprovisional Application, Petition for One-Month Extension of Time; a check in the amount of \$55.00 (Check No. 2143) to cover the Petition fee; Formal Drawings for Figures 1A-42 (49 sheets); Preliminary Amendment to Accompany Sequence Listing; Statement of Support of Computer Readable Form Submission; Computer Readable Form Copy of the Sequence Listing (1 diskette) and paper copy of Sequence Listing. This response is due on or before September 22, 2004 with a one-month extension.

Please charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Customer Number: 35437, Reference No. 21465-510 UTIL.

Respectfully submitted,

Date: September 22, 2004


Ivor R. Elrifi, Reg. No. 39,529
Eric Sinn, Reg. No. 40,177
Caryn DeHoratius, Reg. No. 45,881
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TRANSMITTAL LETTER

Transmitted herewith for filing in the above-referenced patent application are the following documents:

1. Response to Notice to File Missing Parts under 37 CFR 1.52 or 1.53 (1 page);
2. Copy of Notice to File Missing Parts of Nonprovisional Application (2 pages);
3. Executed Combined Declaration and Power of Attorney, 1 counterpart (4 pages);
4. Check No. 2144 in the amount of \$504.00 (\$65.00 to cover the surcharge and \$439 to cover the additional claim fees);
5. Petition for a One-Month Extension of Time (1 page);
6. Check No. 2143 for \$55.00 to cover the One-Month Extension;
7. Replacement Drawings, Figures 1A-42 (49 sheets);
8. Preliminary Amendment to Accompany Sequence Listing (4 pages);
9. Paper Copy of Sequence Listing (9 pages);
10. Computer Readable Form Copy of the Sequence Listing (1 diskette);
11. Statement in Support of Sequence Listing Submission (1 page); and
12. Return postcard.

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (212) 935-3000, New York, New York. A duplicate copy of this transmittal letter is enclosed.

The Commissioner is authorized to charge any additional fees that may be due, or to credit any overpayment, to the undersigned's account, Deposit Account No. 50-0311, Ref. No. 21465-510 UTIL, Customer Number: 35437.

Respectfully submitted,

Ivor R. Elrifi, Reg. No. 39,529
Eric Sinn, Reg. No. 40,177
Caryn DeHoratius, Reg. No. 45,881
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Date: September 22, 2004



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/767,779	01/28/2004	John H. Leamon	21465-510 UTIL

35437
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
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CONFIRMATION NO. 5560

FORMALITIES LETTER



OC000000013032157



Date Mailed: 06/22/2004

09/24/2004 JBALINAN 00000044 10767779

02 FC:2051	65.00 OP
03 FC:2201	258.00 OP
04 FC:2202	36.00 OP
05 FC:2203	145.00 OP

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

09/24/2004 JBALINAN 00000044 10767779

02 FC:2051	65.00 OP
03 FC:2201	258.00 OP
04 FC:2202	36.00 OP
05 FC:2203	145.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

RECEIVED

JUN 30 2004

Mintz Levin - NYC

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required. The drawings submitted are not acceptable because:
 - More than one figure is present and each figure is not labeled "Fig." with a consecutive Arabic numeral (1, 2, etc.) or an Arabic numeral and capital letter in the English alphabet (A, B, etc.) (see 37 CFR 1.84(u)(1)). See Figure(s) 8A, 8B.
 - The drawings submitted to the Office are not electronically reproducible. Drawing sheets must be submitted on paper, which is flexible, strong, white, smooth, non-shiny, and durable (see 37 CFR 1.84(e)). See Figure(s) 3A-3D, 9, 10A-10F, 22, 39.
- This application clearly fails to comply with the requirements of 37 CFR 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604

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01 FC:2051

55200 OP

(September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

The following item(s) appear to have been **omitted** from the application:

- **Figure(s) 11C&11D** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted item(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b)**. In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Additional claim fees of **\$439** as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.


SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **\$504** for a Small Entity

- **\$65** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **\$439**
 - **\$258** for **15** independent claims over 3.
 - **\$36** for **91** total claims over 20.
 - **\$145** for multiple dependent claim surcharge.

Replies should be mailed to: Mail Stop Missing Parts
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY